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**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

Written statement* submitted by the Asian Legal Resource Centre, a non-governmental organization in general consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[31 August 2015]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).



India: ensure no submergence without complete rehabilitation of Sardar Sarovar dam affected

1. The Asian Legal Resource Centre (ALRC) draws the attention of the Human Rights Council to the decision of Government of India (GOI) to complete the construction of the Sardar Sarovar Dam on the Narmada River up to its full height of 139 meters. The decision violates various orders of the Narmada Water Disputes Tribunal Award, the state rehabilitation policies, as well as judgments of the Supreme Court delivered in 1991, 2000, 2002, 2005, and 2011. The Supreme Court has repeatedly disallowed construction of the dam before complete rehabilitation of the project affected people (PAP), who are spread over in three states in western India, i.e. Madhya Pradesh, Maharashtra and Gujarat.
2. While 11,000 families have received land as a result of the intense three decade long struggle of the people, led by Narmada Bachao Andolan (NBA), thousands of affected families are yet to receive land for land, as ordered by the Supreme Court. The state government of Madhya Pradesh, on its part, has expressed its inability to find suitable land on record to ensure land for land.
3. The completion of the Dam, according to several independent studies, including one by Tata Institute of Social Sciences, will submerge 245 villages and 376 square kilometers of land. It will also internally displace around 300,000 people.
4. Studies also point out that the canal system of the Sardar Sarovar Project will cover another 800 square kilometers of land and displace thousands. In a gross violation of their human and land rights, the GOI does not consider the people displaced for the canals as PAPs. The official neglect of those affected in this 800 square kilometer area is an alarming oversight.
5. There are a large number of affected families at the current dam height of 121.92 metres that have not been rehabilitated. Most of these families are tribals, farmers, fish-workers, and the landless, belonging to 177 villages in Madhya Pradesh; hundreds are from the 33 tribal villages in Maharashtra, and there also some from 6-7 villages in Gujarat. The GOI and state institutions have indulged in willful dilution of relief and rehabilitation laws and policies, introducing, for instance, cash payments in lieu of lands submerged. However, experience has shown that this has not worked in the interests of a majority of the PAFs, particularly the landless, marginalized communities, and tribal people. The interim report of the Justice S.S. Jha Commission of Inquiry, constituted by the Jabalpur High Court to investigate corruption in rehabilitation, corroborates most of these facts. The final report of the Commission is still awaited.
6. The authorities have also indulged in irregularities to deny the PAFs their legitimate rights. The most recent example is the denial of PAF status to 16,000 families, by showing their lands and houses in an "out of submergence" area, on the basis of questionable backwater calculations, something that has been challenged by the PAFs.
7. As of now, less than 15% reservoir water is being utilized and less than 30% of canal work has been completed. In light of this fact, the current urgency being shown by the government, to raise the dam height and to fill the reservoir is incongruent.
8. In addition, the authorities have decided to prioritize allocation of dam water and beneficiary land to national and international corporations, including those in the business of bottling water, which is in clear violation of the Narmada Award, project-commitments, and public interest.
9. Increasing the height of the dam in these circumstances will endanger the survival of around 40,000 families still awaiting alternative land, livelihood, and housing at resettlement sites. Submerging their lands would, in these circumstances, violate their land and livelihood rights under the recently enacted Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. Also, apart from violating local laws and many Supreme Court orders, completing the project would also transgress the Universal Declaration of Human Rights, International Covenant on Economic, Social and Cultural Rights, and the Indigenous and Tribal People's Convention, 1989, of ILO.
10. The Asian Legal Resource Centre therefore urges the Council to:

- a) Ask the GOI to halt the completion of the Sardar Sarovar Project until all project-affected families are rehabilitated in the letter and spirit of the Supreme Court Orders;
 - b) Ask the GOI to treat all adult sons and unmarried daughters of PAFs as separate PAFs, as ordered by NWDTA and the Supreme Court, and provide them with full rehabilitation;
 - c) Ask the GOI to wait for the final report of the Justice S.S. Jha Commission of Inquiry before taking any related decisions, including filling of the reservoir. The Council must also ask the GOI to compensate and rehabilitate the PAFs duped by corrupt authorities, if any, and prosecute the guilty.
 - d) Ask the GOI to ensure that the Land Acquisition, Rehabilitation and Resettlement Act, 2013, is implemented in entirety and fair compensation is ensured for all PAFs.
 - e) Ask the GOI for a comprehensive review of the project and the impact to study what it has cost and will cost the lives of the people and their habitat. Such a review must involve all the concerned government agencies, the UNHRC, representatives of the people's movement in the Valley raising the cause of displaced over the past 3 decades, and members of the civil society, experts, and independent social & human rights bodies. The international community, in particular the UNHCR, the International Labour Organization, and various UN human rights bodies, must facilitate such a comprehensive review of the Project.
 - f) Send their Special Rapporteurs on Housing Rights, Human Rights, Internal Displacement, Rights of Indigenous Communities, and UNWOMEN to visit the affected areas of Sardar Sarovar Project immediately to assess the situation.
 - g) Ask the Gujarat state government to stop diverting Narmada River water, as well as the lands acquired in the name of canal work, to private corporations. The Indian State must ensure that the water is utilized to end the drinking water crisis in Gujarat and lands are either used for canals or returned to the original owners.
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